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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY



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September 6, 2001

Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: CC Docket No. 00-251
In the Matter of Petition of AT&T Communications of
Virginia, Inc., TCG Virginia, Inc., ACC National Telecom
Corp., MediaOne of Virginia and MediaOne
Telecommunications of Virginia, Inc. for Arbitration of an
Interconnection Agreement With Verizon Virginia, Inc.
Pursuant to Section 252(e)(5) of the Telecommunications Act
of 1996

Dear Ms. Salas:

On behalf of AT&T Communications of Virginia, Inc. and its affiliates listed above,
enclosed please find an original and three (3) copies of the rebuttal testimony of
Michael Pfau. This rebuttal testimony responds to the "Additional Direct Testimony"
which Verizon filed on August 31, 2001.

Thank you for your consideration in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark A. Keffer".

Mark A. Keffer

cc: Service List
Enclosures

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**In the Matter of
Petition of AT&T Communications
of Virginia, Inc., Pursuant
to Section 252(e)(5) of the
Communications Act, for Preemption
of the Jurisdiction of the Virginia
State Corporation Commission
Regarding Interconnection Disputes
with Verizon-Virginia, Inc.**

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 00-251

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September, 2001, a copy of the rebuttal testimony of Michael Pfau filed on behalf of AT&T Communications of Virginia, Inc. and its affiliates listed above was sent via hand delivery, Federal Express and/or by email to:

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
Petition of AT&T Communications) **CC Docket No. 00-251**
of Virginia, Inc., Pursuant)
to Section 252(e)(5) of the)
Communications Act, for Preemption)
of the Jurisdiction of the Virginia)
State Corporation Commission)
Regarding Interconnection Disputes)
with Verizon-Virginia, Inc.)
)

**REBUTTAL TESTIMONY OF
MICHAEL PFAU
ON BEHALF OF AT&T¹**

ISSUES ADDRESSED	
SUB- ISSUE III.7.A.	Where AT&T requests that existing services be replaced by UNEs and/or UNE Combinations, may Verizon physically disconnect, separate, alter or change in any other fashion the equipment or facilities that are used, without AT&T's consent?
SUB- ISSUE III.7.B. (same as VII-11)	Must Verizon implement an ordering process that enables AT&T to place a bulk order for the conversion of services to UNEs or UNE Combinations?
ISSUE III.8	Is Verizon obligated to provide access to UNEs and UNE combinations (such as enhanced extended links and sub-loops) at any technically feasible point on its network, not limited to points at which AT&T collocates on Verizon's premises?

SEPTEMBER 6, 2001

¹ This Affidavit is presented on behalf of AT&T Communications of Virginia, Inc., TCG Virginia, Inc., ACC National Telecom Corp., MediaOne of Virginia and MediaOne Telecommunications of Virginia, Inc. (together, "AT&T").

1 **Q. PLEASE STATE YOUR NAME, YOUR POSITION, AND YOUR**
2 **BUSINESS ADDRESS.**

3 A. My name is C. Michael Pfau and my business address is 295 North Maple
4 Avenue, Basking Ridge, New Jersey, 07920. I am a Division Manager in the Law
5 and Public Policy organization.

6 **Q. ARE YOU THE SAME WITNESS WHO FILED TESTIMONY ON**
7 **UNBUNDLED NETWORK ELEMENT ISSUES?**

8 A. Yes.

9 **Q. PLEASE DESCRIBE THE PURPOSE OF THIS TESTIMONY.**

10 A. My testimony will rebut certain aspects of Verizon's Additional Direct Testimony
11 on Mediation Issues related to Unbundled Network Elements filed on August 31,
12 2001 ("Verizon Additional Direct Testimony"). In particular, I will address
13 Issues III.7.A and B, and Issue III.8.

14 **Q. DOES VERIZON'S LATE-FILED TESTIMONY ACCURATELY**
15 **REFLECT THE STATUS OF THESE ISSUES?**

16 A. No. Verizon's testimony gives the impression that the parties sought but were
17 unable to reach agreement on the issues. While it is correct that the parties failed
18 to reach agreement, it is not correct that Verizon exerted much effort in the
19 settlement process. In fact, Verizon's inexplicable delay in filing testimony on
20 these issues is indicative of its total lack of response or interest.

21 **Q. HAS VERIZON EXERTED ANY MEANINGFUL EFFORT TO REACH**
22 **AGREEMENT IN THESE AREAS?**

23 A. No. My understanding was that the August 8th mediation session was intended to
24 give the parties an opportunity to fully understand the positions and to reach
25 closure where misunderstandings may have existed. For my part, I believed that
26 some progress was made in the mediation session. I perceived that the issue

1 related to III.7.A could be resolved through a minor addition or clarification to the
2 language of paragraph 11.13.2 proposed by AT&T. Likewise, I had the
3 impression that clarification to language originally proposed by AT&T in
4 paragraph 11.13.4 could resolve Issue III.7.B. In both cases, I specifically
5 requested, and I thought Verizon agreed, that Verizon would submit an edited
6 version of the AT&T language that both reflected the discussions in the mediation
7 session and accommodated the concerns of Verizon.

8 Unfortunately, in the intervening period of more than three weeks between
9 the mediation session and Verizon's filing of August 31st, no suggestions of
10 language changes were forthcoming from Verizon, despite its promises.¹

11 With respect to Issue III.8, which was also to be addressed in the mediation
12 session of the 8th, Verizon did not have a SME available nor could Verizon add
13 one by telephone who could address the factual and operational consideration
14 related to UNE access.

15 **Q. WHAT IS YOUR RESPONSE TO VERIZON'S TESTIMONY**
16 **ATTEMPTING TO JUSTIFY ITS POSITION ON ISSUE III.7.A?**

17 A. I am surprised that Verizon persists with its position that "it could be necessary
18 for Verizon VA to disconnect its equipment or facilities in order to complete a
19 request for the conversion to UNEs." Verizon Additional Direct Testimony at 18.
20 Clearly, Verizon's insistence to retain the unilateral right to disconnect relates
21 only to pre-existing combinations, otherwise there would not be anything to
22 "disconnect." However, with regards to such pre-existing combinations Verizon

1 In Verizon's August 17th Testimony Verizon stated that "language is circulating" with respect to Issue III.7.A and that "language [is] being developed by Verizon VA" with

1 has provided no practical example of why such disconnection is necessary. The
2 irrelevancy of Verizon's examples in response to AT&T DR 3-13 was discussed
3 at length in my Direct Testimony of July 31st. Verizon presents no new examples
4 in its August 31st Direct Testimony, nor does Verizon even attempt to rebut my
5 testimony.

6 Verizon simply seeks to allow a yet-to-be-identified exception consume an
7 otherwise reasonable general rule. Indeed, Verizon admits that it expects that
8 "most service conversions to be completed without disconnecting service to the
9 customer" and states that this is especially the case with "conversion from special
10 access service to UNE combinations of loops and dedicated transport." Verizon
11 Additional Direct Testimony at 18. Nonetheless, Verizon continues to insist on a
12 litigious game of "Go Fish" to determine Verizon's real intentions. In this regard,
13 Verizon's proposals hobble competitors' efforts to compete by diverting resources
14 to litigation and interjecting further delays to service delivery.

15 **Q. IS THERE ANY LEGITIMACY TO VERIZON'S CONCERNS?**

16 A. No. Verizon is pursuing a problem existing only in the abstract. If combined
17 elements truly need to be separated in order for AT&T to make use of a pre-
18 existing combination, AT&T would gain nothing if AT&T insisted that the
19 elements not be separated. Service delivery gridlock would occur because
20 Verizon could not provide the combination without a "separation" occurring in
21 the delivery process, but the "separation" could not occur because the contract

respect to issue III.7.B. Verizon also stated for Issue III.8 that "language [is] being developed". See Verizon Direct Testimony on Mediation Issues at 20.

1 and the law would preclude it. The end result is that AT&T could not provide
2 service.

3 Indeed, AT&T's language accommodates Verizon's concern because it
4 would permit the disconnection of a service when necessary, but gives AT&T,
5 rather than Verizon, control over that decision. AT&T's proposed contractual
6 language requires that "Verizon shall not physically disconnect, separate or
7 change in any other fashion equipment and facilities employed to provide the
8 service being replaced, *except at the request of AT&T* (proposed paragraph 11.3.2,
9 emphasis added). This language is more advantageous to Verizon because the
10 language of the Commission's Rule 51.315(b), taken as written, does not permit
11 the incumbent LEC to separate requested network elements under any conditions.
12 As noted, it would be in AT&T's interest to allow disconnection if that is
13 necessary. Verizon's opposition to AT&T's language is therefore difficult to
14 fathom.

15 As explained in my testimony of July 31st, none of Verizon's examples
16 justify its discretion to separate elements (contrary to the Commission's rules).
17 I will not repeat the discussion here, given that I have already rebutted this point
18 at pages 15 through 18 of my July 31st Direct Testimony.

19 **Q. WHY DOES ISSUE III.7.B REMAIN OPEN?**

20 A. I'm not sure. Although Verizon has indicated its intent to provide alternative
21 language (for AT&T proposed paragraph 11.13.4) it has not yet done so.

22 If, however, Verizon's alternative is to utilize the methods and procedures
23 posted on its website, AT&T has some concerns: (1) the conversion process is
24 only available if the CLEC first adopts Verizon's model interconnection

1 language; (2) the web site material does not impose a legally enforceable
2 obligation upon Verizon to operate within the procedures set forth upon the web
3 site; and (3) the procedures are subject to Verizon's unilateral withdrawal or
4 modification. Nevertheless, if language could be incorporated into the AT&T
5 interconnection agreement closely paralleling what is reflected on Verizon's web
6 site, then the narrow issue in III.7.B would likely be rendered moot.

7 **Q. DOES VERIZON'S RESPONSE TO ISSUE III.8 RESOLVE THE ISSUE?**

8 A. No. While Verizon gives the impression that collocation may not be required in
9 all instances, it never clearly states when collocation is and is not required. For
10 example, Verizon never says that it will not impose collocation requirements
11 when AT&T seeks to access on-premises wiring at MTEs. Rather, Verizon only
12 says "Verizon VA provides access to multiple dwelling units (MDUs) or multi-
13 tenant environments (MTEs) through cross-connections between its network
14 interface device (NID) and the CLEC's NID or, if an entrance module is available
15 in the Verizon VA NID, by connecting the CLEC loop to the Verizon VA NID."
16 Verizon Additional Direct Testimony at 9-10. Collocation as a precondition to
17 access to on-premises wiring UNEs should not be required, and that fact should
18 be clearly stated. However, the only thing made clear by the Verizon additional
19 testimony is that Verizon will impede CLEC access to the MTE/MDU market by
20 requiring that CLEC access on-premises wiring be using the Verizon NID and
21 that only Verizon may make the cross-connection (Verizon Additional Direct
22 Testimony at 15-17). As explained in my Direct Testimony (at 67-70 and 73-78)
23 these provisions only serve to raise competitors' costs and slow their market entry
24 and, as a result, are simply anti-competitive.

1 **Q. WHAT ACTION SHOULD THIS COMMISSION TAKE WITH RESPECT**
2 **TO ISSUES III.7.A, III.7.B, AND III.8?**

3 A. Both this Rebuttal Testimony and my earlier Direct Testimony show that AT&T's
4 proposed language is entirely consistent with the Act and the prior rulings of this
5 Commission. AT&T's language seeks to set forth in a clear, practical and pro-
6 competitive manner the obligation of Verizon to support AT&T's efforts to
7 compete in the local market. On the other hand, Verizon's language is vague or
8 non-existent, and its objections ill-supported. Verizon's approach to the
9 negotiations and mediation of this language has not been constructive – just the
10 opposite. Adoption of the Verizon language (or its omission of language) will
11 simply invite on-going litigation to clarify or enforce what Verizon must deliver,
12 further sapping the resources of the CLEC industry.

13 **Q. DOES THIS CONCLUDE YOUR REBUTTAL OF VERZION'S LATE**
14 **FILED TESTIMONY OF AUGUST 31, 2001?**

15 A. Yes.

I, C. Michael Pfau, hereby swear and affirm that the foregoing rebuttal testimony was prepared by me or under my direct supervision or control and is true and accurate to the best of my knowledge and belief.

Signed:

A handwritten signature in black ink, appearing to read "C. Michael Pfau", is written over a horizontal line. The signature is stylized with large, flowing loops and a prominent initial "C".